

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

THEARSA L. COLLIER,

Plaintiff,

v.

DR. MARK T. ESPER,
Secretary of the Army,

Defendant.

§
§
§
§
§
§
§
§
§
§

2:16-CV-129-D

ORDER

On December 27, 2018 the United States Magistrate Judge entered findings, conclusions, and a recommendation to grant defendant Dr. Mark T. Esper's ("Esper's") March 29, 2018 motion for summary judgment. On January 10, 2019 plaintiff Thearsa L. Collier ("Collier") filed objections to the findings, conclusions, and recommendation.

After making an independent review of the pleadings, files, and records in this case, the findings, conclusions, and recommendation of the magistrate judge, and Collier's objections, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted, Esper's motion for summary judgment is granted, and this action is dismissed with prejudice by judgment filed today.

Collier's January 8, 2019 motion to extend deadline for plaintiff to file plaintiff's response to defendant's motion for summary judgment is denied. But even if the court were to consider Collier's untimely response to defendant's motion for summary judgment, the outcome would be the same. It is undisputed that Collier filed a Formal Complaint of Discrimination with the Equal Employment Opportunity Commission ("EEOC") on September 23, 2014. Once Collier proceeded down the administrative route, she was required to completely exhaust her administrative remedies before

commencing suit in federal court. *See Smith v. Potter*, 400 Fed. Appx. 806, 810 (5th Cir. 2010) (per curiam); *White v. Frank*, 895 F.2d 243, 244 (5th Cir. 1990). Because she did not exhaust her administrative remedies before filing this lawsuit, the court lacks jurisdiction over her age discrimination claims.*

SO ORDERED.

February 13, 2019.


SIDNEY A. FITZWATER
SENIOR JUDGE

*Standard language in the EEOC's March 31, 2016 decision indicating that Collier had a right to file a civil action does not alter the fact that Collier failed to completely exhaust her administrative remedies with respect to her September 23, 2014 Formal Complaint of Discrimination *before* the EEOC provided her this notice.